

Regular Session, 2009

SENATE BILL NO. 110

BY SENATOR MARIONNEAUX

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CREDIT. Provides relative to the Credit Repair Services Organizations Act.

AN ACT

To amend and reenact R.S. 9:3573.3(5), 3573.4(F), 3573.6(B), and 3573.11(B), and to repeal R.S. 9:3573.11(C), relative to the Credit Repair Services Organizations Act; to provide for the filing of a registration statement with the attorney general; to provide for certain terms, notifications, procedures, conditions, and requirements; to provide for orders, injunctions, publication, and availability of records to the general public; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:3573.3(5), 3573.4(F), 3573.6(B) and 3573.11(B) are hereby amended and reenacted to read as follows:

§3573.3. Prohibited Conduct

A credit repair services organization or a salesperson, agent, or representative of a credit repair services organization, who sells or attempts to sell the services of a credit repair services organization shall not:

* * *

(5) Advertise or cause to be advertised, in any manner whatsoever, the services of a credit repair services organization without filing a registration statement

1 with the ~~office of financial institutions~~ **attorney general**, unless otherwise provided
2 by this Part.

3 * * *

4 §3573.4. Bond; trust account

5 * * *

6 F. The credit repair services organization shall notify the attorney general in
7 writing within thirty days after it has ceased to do business in this state. ~~The surety~~
8 ~~bond shall be maintained for two years after the date that the credit services~~
9 ~~organization ceases operations or the date that it has filed notice with the attorney~~
10 ~~general of Louisiana, whichever is later.~~

11 * * *

12 §3573.6. Disclosure statement

13 * * *

14 B. The credit repair services organization shall maintain on file, for a period
15 of ~~two~~ **four** years after the date the statement is provided, an exact copy of the
16 statement, signed by the buyer, acknowledging receipt of the statement.

17 * * *

18 §3573.11. Orders, injunctions, and publication; ~~availability of records to the general~~
19 **public**

20 * * *

21 B. The attorney general may, in his discretion, conduct such investigations
22 as he deems necessary to ascertain possible violations of this Part, ~~or any rule,~~
23 ~~regulation, or order promulgated or issued pursuant to this Chapter.~~ Any person who
24 is engaged in or is engaging in or is about to engage in any act or practice which is
25 prohibited by this Part or any rule, regulation, or order promulgated or issued
26 pursuant to this Chapter, or any person who has failed to act or is failing to act or is
27 about to fail to act under any affirmative duty imposed by this Part ~~or any rule,~~
28 ~~regulation, or order promulgated or issued pursuant to this Chapter,~~ shall be subject
29 to appropriate action by the attorney general. Such action shall include but shall not

1 be limited to ~~the issuance of orders to cease and desist or to assess civil money~~
2 ~~penalties~~, entering into compliance agreements, seeking injunctive relief from a court
3 of competent jurisdiction, or any combination thereof.

4 * * *

5 Section 2. R.S. 9:3573.11(C) is hereby repealed in its entirety.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Danielle Doiron.

DIGEST

Present law provides that a credit repair service organization, salesperson, agent or representative of a credit repair services organization must register with the office of financial institutions in order to advertise the services of a credit repair services organization.

Proposed law requires registration with the attorney general instead of the office of financial institutions.

Proposed law eliminates the requirement in present law that a surety bond must be maintained for two years after the date the credit services organization ceases operations or the date of the filed notice with the attorney general, whichever is later.

Present law provides that the attorney general may conduct investigations, as he deems necessary, to ascertain possible violations of orders, injunctions, and publications, or any rule, regulation, or order promulgated or issued pursuant to the chapter and to enforce law and regulations with cease and desist orders, civil money penalties, compliance agreements and injunctions.

Proposed law eliminates the authority of the attorney general to issue cease and desist orders or to assess civil money penalties when enforcing present law.

Proposed law eliminates as a cause of enforcement action by the attorney general a credit repair services organization engaging in acts or practices which are prohibited by, or failing to act under an affirmative duty imposed by, rules, regulations, or orders promulgated or issued pursuant to present law.

Proposed law deletes the provision which requires the attorney general to make public all of the following:

- (1) Cease and desist orders
- (2) Assessment of civil money penalties or fines
- (3) Obtaining injunctive relief

Present law provides that a credit repair services organization shall provide a buyer with a disclosure statement and maintain the statement on file for a period of two years after the statement is provided and signed by the buyer.

Proposed law retains present law but extends the retention period from two years to four years.

(Amends R.S. 9:3573.3(5), 3573.4(F), 3573.6(B), and 3573.11(B); repeals R.S. 9:3573.11(C))